
STATUTORY INSTRUMENTS

2000 No. 2619

Protection of Children Act Tribunal Regulations 2000

PART II

Appeals and applications for leave

Initiating an appeal

2.—(1) A person who wishes to appeal to the Tribunal—

- (a) under section 4(1)(a) of the Act, against a decision to include him in the list;
- (b) under regulation 13 of the Education Regulations, against a decision to give a direction under regulation 5 of those Regulations; or
- (c) under regulation 13 of the Education Regulations, against a decision not to revoke or vary such a direction,

must do so by application in writing to the Secretary.

(2) An application under this regulation must—

- (a) give the applicant's name, date of birth and full postal address;
- (b) give sufficient information concerning the decision appealed against to make clear whether it falls within paragraph (1)(a), (1)(b) or (1)(c);
- (c) give the reasons why the applicant believes he should not be included in the list, or why he believes the direction should not have been given, or should be revoked or varied, as the case may be;
- (d) give the name, address and profession of the person (if any) representing the applicant;
- (e) state whether the Secretary should send documents concerning the application to the applicant's address or to the representative's address, if either is in the United Kingdom;
- (f) otherwise, give an address within the United Kingdom to which documents concerning the application intended for the applicant may be sent; and
- (g) be signed by the applicant.

(3) An application under this regulation must be received by the Secretary no later than the first working day after the expiry of three months from the date of the letter informing the applicant of the decision.

Applying for leave

3.—(1) An application for leave—

- (a) to appeal to the Tribunal under section 4(1)(b) of the Act against a decision not to remove him from the list, or
- (b) to have the issue of his inclusion in the list determined under section 4(2) of the Act by the Tribunal,

must be made in writing to the Secretary.

- (2) An application under this regulation must—
- (a) give the applicant's name, date of birth and full postal address;
 - (b) give sufficient information making clear whether his application is for leave to appeal, or for leave to have the issue of inclusion in the list determined;
 - (c) give the reasons why the applicant believes the decision was wrong or why he believes he should not be included in the list, as the case may be;
 - (d) give the dates of any previous applications he has made to the Tribunal;
 - (e) give details of any new evidence or material change of circumstances since that application was determined which might lead the Tribunal to a different decision;
 - (f) in the case of an application to have the issue of his inclusion in the list determined by the Tribunal, give details of any civil or criminal proceedings relating to the misconduct of which the applicant is alleged to have been guilty;
 - (g) give the name, address and profession of the person (if any) representing the applicant;
 - (h) state whether the Secretary should send documents concerning the application to the applicant's address or to the representative's address, if either is in the United Kingdom;
 - (i) otherwise, give an address within the United Kingdom to which documents concerning the application intended for the applicant may be sent; and
 - (j) be signed by the applicant.

(3) An application under paragraph (1)(a) must be received by the Secretary no later than the first working day after the expiry of three months from the date of the letter informing the applicant of the decision.

Acknowledgement and notification of application

- 4.—(1) On receiving an application, the Secretary shall—
- (a) send an acknowledgement of its receipt to the applicant;
 - (b) subject to the following provisions of this regulation, enter particulars of it in the records and send a copy of it, together with any documents supplied by the applicant in support of it, to the respondent.
- (2) The Secretary may—
- (a) send the proposed respondent brief particulars relating to the application, and
 - (b) allow him five working days in which to make any comment on it.
- (3) If the Secretary is of the opinion that the applicant is asking the Tribunal to do something which it cannot do, she may notify the applicant in writing—
- (a) of the reasons for her opinion, and
 - (b) that the application will not be entered in the records unless within five working days the applicant notifies the Secretary in writing that he wishes to proceed with it.
- (4) If in the Secretary's opinion there is an obvious error in the application—
- (a) she may correct it;
 - (b) she shall notify the applicant accordingly; and
 - (c) unless within five working days of receipt of notification under sub-paragraph (b) the applicant notifies her in writing that he objects to the correction, the application shall be amended accordingly.

Response to application

5.—(1) The Secretary may direct the respondent to respond to the application within 15 working days after the date he receives the direction.

(2) If the respondent fails to respond as directed, he shall not be entitled to take any further part in the proceedings.

(3) The response must—

- (a) acknowledge that the respondent has received a copy of the application;
- (b) indicate whether or not he opposes it, and if he does, why;
- (c) provide the information and documents required under paragraph (4).

(4) The following information and documents are required under this paragraph—

- (a) the name, address and profession of the person (if any) representing the respondent and whether the Secretary should send documents concerning the application to the representative rather than to the respondent;
- (b) copies of any letter informing the applicant of a decision which is the subject of the application;
- (c) copies of any information submitted with a reference under section 2 of the Act and of any observations submitted on it by the applicant;
- (d) copies of any material relied on by the respondent in making a decision under the Education Regulations.

(5) The Secretary must without delay send to the applicant a copy of the response and the information and documents provided with it (subject, in the case of any material provided in accordance with sub-paragraph (4)(d), to any direction of the President under regulation 21).

Misconceived applications etc.

6.—(1) The President may at any time strike out the application on the grounds that—

- (a) it is made otherwise than in accordance with regulation 2 or 3 (whichever is applicable);
- (b) it is outside the jurisdiction of the Tribunal or is otherwise misconceived; or
- (c) it is scandalous, frivolous or vexatious.

(2) Before striking out an application under this regulation, the President must—

- (a) invite the parties to make representations on the matter within such period as he may direct;
- (b) if within the period specified in the direction the applicant so requests in writing, afford the parties an opportunity to make oral representations;
- (c) consider any representations the parties may make.

Grant or refusal of leave

7.—(1) The President may grant or refuse leave in relation to an application under regulation 3 as he sees fit.

(2) Subject to regulation 8, if the President refuses leave the application shall be dismissed.

(3) The Secretary shall without delay notify the parties in writing of the President's decision, and if he has refused leave—

- (a) shall notify them of his reasons for doing so, and
- (b) shall inform the applicant of his right to request a reconsideration of the decision under regulation 8.

Reconsideration of leave

8.—(1) The President must reconsider a decision to refuse leave if within ten working days after receipt of a notice under regulation 7(3) the Secretary receives a written request to do so from the applicant.

(2) If in his request under paragraph (1) the applicant has asked to make representations about leave at a hearing, the Secretary must fix a hearing for those representations to be heard.

(3) The Secretary must notify the respondent of any hearing fixed for the purpose of considering whether to grant leave, and the applicant and the respondent may appear or be represented by any person at that hearing.

(4) If the President again refuses leave after reconsideration,

(a) he must give his reasons for doing so in writing, and

(b) the Secretary shall without delay notify the parties of the decision and provide them with a copy of the reasons.

(5) The Secretary shall without delay notify the parties in writing—

(a) of the President's decision, and

(b) if he has refused leave, of his reasons for doing so.

Further information to be sent by the applicant

9.—(1) The Secretary shall direct the applicant to send to the Secretary the information required by this regulation within 20 working days after he receives notification of the direction.

(2) The information required under this regulation is—

(a) the name of any witness whose evidence the applicant wishes the Tribunal to consider, and the nature and substance of that evidence, and

(b) whether the applicant wishes the President to give any directions or exercise any of his powers under Part IV of these Regulations.

(3) On receiving the information, the Secretary must without delay send a copy to the respondent.

Further information to be sent by the respondent

10.—(1) The Secretary shall direct the respondent to send to the Secretary the information required by this regulation within 20 working days after he receives notification of the direction.

(2) The information required under this regulation is—

(a) the reasons (if he has not already sent them) why the applicant should be included in the list, or why the decision was correct, as the case may be;

(b) the name of any witness whose evidence the respondent wishes the Tribunal to consider, and the nature and substance of that evidence;

(c) whether the respondent wishes the President to give any directions or exercise any of his powers under Part IV of these Regulations.

(3) On receiving the information, the Secretary must without delay send a copy to the applicant.

Amendment of application or response

11.—(1) The applicant may amend the reasons he gives in support of the application, but only with the leave of the President (or at the hearing, with the leave of the Tribunal).

(2) The respondent may amend the reasons he gives for opposing the application, but only with the leave of the President (or at the hearing, with the leave of the Tribunal).

(3) Where the President or Tribunal gives leave to either party to amend the reasons given in support of his case, he may do so on such terms as he thinks fit (including, subject to regulation 32(2), the making of a costs order).

Withdrawal of application or opposition

12.—(1) If the applicant at any time notifies the Secretary in writing, or states at a hearing, that he no longer wishes to pursue his application, the President (or at the hearing, the Tribunal) must without delay dismiss it, and may, subject to regulation 32(2), make a costs order.

(2) If the respondent notifies the Secretary in writing, or states at a hearing, that he does not or no longer opposes the application, the President (or at the hearing, the Tribunal)—

- (a) must without delay determine the application in the applicant's favour;
- (b) subject to regulation 32(2), may make a costs order; and
- (c) must consider making one.